



Proposed Gasoline and Diesel Fuel Rationing Contingency Plan

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Contingency Rationing Regulations

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TITLE 10 - ENERGY

CHAPTER II - FEDERAL ENERGY ADMINISTRATION

PART 500 - MANDATORY GASOLINE AND
DIESEL FUEL RATIONING REGULATIONS

Adoption of New Part Establishing Contingency Rationing Plan
for Gasoline and Diesel Fuel

On May 25, 1976, the Federal Energy Administration (FEA) issued a notice of proposed rulemaking and public hearing (41 FR 21918, May 28, 1976) to amend Chapter II, Title 10 of the Code of Federal Regulations, to establish a new part setting forth regulations with respect to mandatory gasoline and diesel fuel rationing. Written comments were invited through June 28, 1976. Public hearings were held on June 21, 22 and 24, 1976, in Washington, Atlanta, Kansas City, San Francisco and Anchorage.

One hundred and seven written comments were received in response to the notice of proposed rulemaking and 37 oral presentations were made at the five public hearings. Those making comments included representatives of the travel industry, vehicle rental companies, firms engaged in direct sales, refiners and others associated with the petroleum industry, Federal, State and local government, agriculture, transportation industry and firms engaged in energy production.

This contingency rationing plan, required by section 203 of the Energy Policy and Conservation Act (EPCA) (Pub. L. 94-163), if approved by the Congress, would remain in standby

status unless the President finds that putting the plan into effect is required by a severe energy supply interruption or in order to fulfill obligations of the United States under the international energy program and transmits such finding to the Congress, together with a statement of the effective date and manner for exercise of such plan. Pursuant to section 203(b) of EPCA, the President would also be required in order to implement a standby rationing plan to find that such plan is necessary to attain, to the maximum extent practicable, the objectives specified in section 4(b)(1) of the Emergency Petroleum Allocation Act of 1973 (EPAA) (Pub. L. 94-163), as amended, and the purposes of the EPCA. For the rationing contingency plan to become effective and be converted from standby status, the President's request to the Congress to put the plan into effect must not be disapproved by either House of Congress. After these steps are completed, the rationing contingency plan would be implemented for the period specified in the plan but for not more than nine months.

The basic provisions of the contingency gasoline and diesel fuel rationing plan adopted today are essentially the same as proposed. FEA will issue ration coupons and ration credits ("ration rights") for each ration period equal to the total estimated available supply of gasoline for the ration period. FEA would then distribute these ration

rights through four basic programs. First, FEA would provide ration coupons to all eligible individuals. Second, FEA would provide ration credits to all firms which are engaged in priority activities for which a ration credit level has been established. These ration credits would be in addition to any ration coupons received by a person as an eligible individual. Third, FEA would distribute three percent of all ration rights through the State Hardship Reserves which would be used to meet the needs of certain specified users; e.g., handicapped persons, migrant workers, etc. Fourth, FEA would reserve one percent of the ration rights to distribute itself through the National Ration Reserve.

Persons to whom ration rights are issued would redeem their ration rights for gasoline or could sell them in a ration rights exchange market or give them away.

A supplier of gasoline would be required to collect, redeem, and deposit in the supplier's redemption account ration coupons, ration credit checks or redemption checks for all gasoline sold. Retail sales outlets could agree to supply gasoline to a consumer without ration rights provided the retail sales outlet itself obtained ration rights to cover the transaction within ten days of the sale.

Ration periods for coupons would vary in length depending upon projected supply conditions and other factors and would be announced by FEA's publication of a notice in the Federal

Register at least ten days in advance of the ration period. The reason for providing for variable ration periods for coupons is to permit FEA to adjust the number of ration coupons to correspond to the available supply after deduction for the State Hardship Reserves, the National Ration Reserve, and the number of ration credits issued to firms entitled to a ration credit level.

Eligible individuals would apply for ration coupons at issuance points to be designated by FEA, on days designated by FEA. Issuance of ration coupons to eligible individuals would be, for the most part, dependent upon the person's having a valid driver's permit issued by a State. Indians living on reservations under the jurisdiction of the Bureau of Indian Affairs and Alaska Natives may in certain circumstances qualify as eligible individuals even though they do not have driver's permits.

Firms entitled to a ration credit level would be issued ration credits rather than ration coupons. The ration credits would be deposited by FEA each month on the first day of the month in the firm's primary ration credit account maintained with an FEA Regional Processing Center. The firm could then withdraw its ration credits by issuing a ration credit check drawn on its primary ration account to the order of its gasoline supplier. The firm could also issue a ration credit check made payable to itself or any person;

the check could then be deposited in a secondary ration credit account or exchanged for coupons at a ration coupon issuance point. Typically, a firm would open a secondary ration credit account for its subsidiaries so that those subsidiaries could write their own ration credit checks for the purchase of gasoline.

Any firm that was not in operation during a base period could apply to FEA for assignment of a base period use and ration credit allotment. FEA would determine the appropriate base period use, taking into account the typical gasoline or diesel fuel consumption patterns of similar firms.

FEA would establish Regional Processing Centers to perform automated account posting activities in support of the majority of FEA's ration banking activities. FEA would determine the number and location of these Centers, which would serve as sole processing facilities for all ration credit and redemption accounts within given geographic regions. The Regional Processing Centers would establish a check file for each ration credit account. The Centers would arrange to supply the necessary ration credit checks and deposit forms to account owners.

Although not part of the regulations issued today, guidelines are being developed to set forth the procedures which FEA and participating banks and issuance points would follow in carrying out the regulatory program for issuing

ration rights and clearing primary and secondary ration credit accounts and redemption accounts. Representatives from the commercial banking industry are assisting in the development of these guidelines.

The functions of the State Rationing Offices and Local Rationing Boards remain essentially as proposed. Hardship allotments could be made by Local Rationing Boards to handicapped persons; low-income, long distance commuters; migrant workers; and, as discussed in more detail below, certain persons engaged in household moves. Other hardship needs could also be handled through the Local Rationing Boards.

The regulations adopted today include the limited diesel fuel rationing program as proposed. Eligible individuals would use their allotments of gasoline ration coupons for their diesel fuel requirements. Firms which have an allocation level under the middle distillate allocation program and which operate diesel-powered vehicles would be issued a diesel fuel entitlement card for each such vehicle, to be used at the time of purchase of diesel fuel at a retail sales outlet. The entitlement card would be linked to a ration credit account maintained by FEA for all firms purchasing diesel fuel at retail sales outlets. A firm having an entitlement card would be able to purchase volumes of diesel fuel comparable to what it would be entitled to receive under the allocation level established in Subpart G

of 10 CFR Part 211 (the Mandatory Petroleum Allocation Regulations), but without application of an allocation fraction.

The regulations adopted today contain several modifications to the proposed regulations. The most significant changes are the following:

Relationship of allocation to rationing and maintenance of base period supplier/purchaser relationships.

As proposed, the regulations included provisions for the allocation of gasoline from suppliers to wholesale purchaser-resellers utilizing the bulk of the allocation concepts currently contained in 10 CFR Part 211. The existing allocation program would have been substantially modified by eliminating the concept of supplier/purchaser relationships between suppliers and ultimate consumers.

FEA determined that it was preferable to continue to require the maintenance of base period supplier/purchaser relationships between suppliers and bulk purchasers of gasoline. Incorporation of this concept essentially adopts all of 10 CFR Part 211 as it relates to the allocation of motor gasoline. This being so, there is no longer any need to set forth separate gasoline allocation regulations in the Rationing Contingency Plan since the allocation regulations as set forth in 10 CFR Part 211 are adequate.

In reaching the decision to require the maintenance of base period supplier/purchaser relationships between suppliers and bulk purchasers of gasoline, FEA believed that it would make little sense to provide ration rights to bulk purchasers of gasoline without requiring their historical suppliers to supply them with their pro-rata share of gasoline. Therefore, the existing requirement that a bulk purchaser's base period supplier must continue to supply the bulk purchaser is included in the Rationing Contingency Plan. This concept is effectuated by permitting the allocation program in 10 CFR Part 211 to operate as currently in effect and to tie ration credit levels to the allocation levels set forth in Subpart F of the Mandatory Petroleum Allocation Regulations.

It should be noted that the obligation of a supplier to continue to supply its base period customers applies only to those customers which are bulk purchasers as defined in 10 CFR 211.102. Firms (including individuals) which are not bulk purchasers will, of course, be entitled to receive allotments of ration rights, but such purchasers are not entitled to an allocation level and do not have supplier/purchaser relationships which must be maintained for the duration of the Mandatory Petroleum Allocation Program.

In making allotments to firms entitled to a ration credit level, the FEA will deposit ration rights into such firms' primary ration credit accounts in amounts equal to

the volume of gasoline those firms would be entitled to receive under the allocation regulations as modified at the time rationing becomes effective, whether or not those firms qualified as bulk purchasers. Also, the number of ration rights allotted to such firms will be calculated without the application of an allocation fraction. For example, a firm entitled to an allocation level of 100 percent of base period use subject to an allocation fraction, which had a base period use of 10,000 gallons of gasoline and whose supplier is applying an allocation fraction of 0.9, would have an allocation entitlement of 9,000 gallons of gasoline (10,000 gallons base period use X 0.9 fraction = 9,000 gallons). The number of ration rights which FEA would allot to that firm, however, would be 10,000, since that is 100 percent of the firm's base period use.

As proposed, the rationing regulations established three gasoline ration credit levels depending on the end use of the gasoline -- 100 percent of current requirements, 100 percent of base period use, and 90 percent of base period use. The regulations then specified the types of end uses which qualified for each ration credit level. Since the ration credit levels are now tied to the allocation levels set forth in the Mandatory Petroleum Allocation Regulations, the ration credit to be allotted to a particular firm will be based on the allocation levels in Subpart F of 10 CFR

Part 211 as amended at the time rationing begins. Also, the definitions of the various end uses (e.g., Department of Defense use, agricultural production, sanitation services, etc.) shall be the definitions set forth in 10 CFR 211.51 as amended at the start of the rationing program as discussed below.

Definitions and ration credit levels.

As indicated above, the definitions of end uses of gasoline for purposes of the rationing regulations shall be the same as set forth for the allocation regulations. It is anticipated that, if the rationing regulations are put into effect, the definitions of the following terms will be changed as indicated.

The definition of "Department of Defense use" would be modified from the proposed definition to substitute "national defense operations" for "strategic defense operations" in recognition of the difficulty of separating strategic activities from other essential national defense activities.

The definition of "agricultural production" would also be modified. The new definition would permit firms producing essential food for human consumption to be eligible for 100 percent of current requirements for gasoline for their essential food producing activities, with non-essential food production and all non-food agricultural activities eligible for 90 percent of base period use. FEA recognizes

that the use of Standard Industrial Classification (SIC) codes is an imperfect means of distinguishing essential foods from non-essential foods, but feels that other definitions of essential foods would lead to greater problems of definition and interpretation than the SIC codes.

The definition of "emergency services" would be modified to include emergency road services, including snow removal, and the repair of essential public utilities.

The definition of "passenger transportation services" would be restricted to include only vehicles with a manufacturer's seated-capacity rating of greater than 10 persons, counting the driver. FEA has chosen to exclude taxicabs on the grounds that taxicabs can achieve gasoline savings through reduced cruising, increased use of taxi stands, and greater use of radio call equipment. Carpool vehicles would benefit from the pooled ration coupon allotments of all drivers sharing the pool vehicle.

The definition of "telecommunications services" would be changed to delete the reference to "periods of substantial disruption of normal service" and to exclude sales and routine administrative activities.

The definition of "sanitation services" would be changed to delete reference to "during emergency conditions."

It is FEA's current view that the definitions described above would read as follows:

"Department of Defense use" means those activities of the United States armed forces directly connected with and essential to national defense operations excluding administrative activities.

"Agricultural production" means: (a) all of the activities classified under the industry code numbers specified below, as set forth in the Standard Industrial Classification Manual, 1972 Edition:

- 011 Cash Grains (excluding 0119, Cash Grains Not Elsewhere Classified)
- 0133 Sugar Crops
- 0134 Irish Potatoes
- 016 Vegetables and Melons
- 017 Fruits and Tree Nuts (excluding Vineyards)
- 0182 Food Crops Grown Under Cover
- 021 Livestock, except Dairy, Poultry, and Animal Specialties (excluding 0214, Sheep and Goats)
- 024 Dairy Farms
- 025 Poultry and Eggs
- 091 Commercial Fishing (excluding 0919, Miscellaneous Marine Products)
- 201 Meat Products
- 202 Dairy Products (excluding 2024, Ice Cream and Frozen Desserts)
- 203 Canned and Preserved Fruits and Vegetables
- 2041 Flour and Other Grain Mill Products
- 2043 Cereal Breakfast Foods
- 2044 Rice Milling (except Brewers' Rice)
- 2045 Blended and Prepared Flour
- 205 Bakery Products (except dessert products such as pastries, pies, cookies and cakes)
- 2061 Cane Sugar, Except Refining Only
- 2062 Cane Sugar Refining
- 2063 Beet Sugar
- 209 Miscellaneous Food Preparations and Kindred Products;

(b) The following activities classified in the industry code numbers specified below, but only to the extent that

they relate to production (including transportation) of food for human consumption:

- 0119 Cash Grains, Not Elsewhere Classified
- 0139 Field Crops, Except Cash Grains, Not Elsewhere Classified
- 0181 Ornamental Floriculture and Nursery Products (limited to vegetable seed production and growing of fruit stocks)
- 019 General Farms, Primarily Crop
- 0214 Sheep and Goats
- 027 Animal Specialties
- 029 General Farms, Primarily Livestock
- 071 Soil Preparation Services
- 072 Crop Services
- 0741 Veterinary Services for livestock, Except Animal Specialties
- 0751 Livestock Services, Except Services for Animal Specialties
- 076 Farm Labor and Management Services
- 0849 Gathering of Forest Products, Not Elsewhere Classified (limited to gathering of maple sap)
- 0919 Miscellaneous Marine Products
- 092 Fish Hatcheries and Preserves
- 147 Chemical and Fertilizer Mineral Mining
- 2046 Wet Corn Milling
- 2048 Prepared Feeds and Feed Ingredients for Animals and Fowls, Not Elsewhere Classified
- 207 Fats and Oils
- 2819 Industrial Inorganic Chemicals, Not Elsewhere Classified
- 286 Industrial Inorganic Chemicals (limited to pesticides and intermediates for the manufacture of pesticides)
- 287 Agricultural Chemicals
- 421 Trucking, Local and Long Distance (limited to trucking of fresh produce, perishable foods, livestock and poultry)
- 497 Irrigation Systems

"Emergency services" means fire fighting, emergency police activities (excluding routine activities), emergency medical services, emergency repair of essential public utilities, and emergency road services including snow removal.

"Passenger transportation services" means (a) surface passenger-carrying services and facilities (excluding water and rail transportation) which serve the general public, whether publicly or privately owned, excluding vehicles with a manufacturer's seated-capacity rating of ten (10) or fewer persons, counting the driver; (b) bus transportation of pupils to and from school.

"Sanitation services" means the collection and disposal for the general public of solid wastes, whether by public or private entities, and the maintenance, operation and repair of liquid purification and waste facilities. Sanitation services also includes the provision of water supply services by public utilities, whether privately or publicly owned or operated.

"Telecommunications services" means the repair, operation, and maintenance of voice, data, telegraph, video, and similar communications services to the public by a communications common carrier, excluding sales and routine administrative activities.

With respect to regulations dealing with ration credit levels, it was proposed that non-governmental firms not otherwise accorded a ration credit level would be given a level of 90 percent of base period use if they reported gasoline as an expense to the Internal Revenue Service or were engaged in religious, charitable, educational or other

eleemosynary activities. Because gasoline is not always reported as a separate expense but rather is included usually in overall business expenses, FEA currently anticipates that the regulations on allocation levels in 10 CFR 211.103 would be amended to provide an allocation level of 90 percent of base period use (subject to an allocation fraction) for non-governmental uses by firms not otherwise accorded an allocation level which include gasoline as an expense, whether or not separately identified, on schedules or forms filed with the Internal Revenue Service. Ninety percent of base period use (subject to an allocation fraction) would be the allocation level proposed for religious, charitable, educational or other eleemosynary activities not otherwise accorded an allocation level.

It is anticipated that at the time rationing would be put into effect the allocation levels currently in 10 CFR 211.103 for cargo, freight and mail hauling by truck, aviation ground support vehicles and equipment, industrial use, commercial use, governmental use and social service agency use would all be subsumed within the allocation level for all other non-governmental uses not otherwise accorded an allocation level (90 percent of base period use subject to an allocation fraction). Ration credit levels would be the same as the allocation levels without application of a fraction. As in the case of all other currently anticipated

amendments to the allocation regulations, these amendments would be subject to public comment and further consideration by FEA before any of them were adopted.

Based on the revised definitions of end use activities described above, it is currently anticipated that the allocation levels in 10 CFR 211.103 would be amended at the time rationing is implemented to reflect the following changes in order of precedence of end uses:

(1) One hundred percent of current requirements (not subject to an allocation fraction).

- Department of Defense use;
- Agricultural production;
- Emergency services; and
- Passenger transportation services.

(2) One hundred percent of base period use (subject to an allocation fraction).

- Telecommunication services;
- Sanitation services; and
- Energy production.

(3) Ninety percent of base period use (subject to an allocation fraction).

- All other government uses;
- All other uses by firms which include gasoline as an expense, whether or not separately identified, on schedules or forms filed with the Internal Revenue Service; and

- All other uses for religious, charitable, educational or other eleemosynary purposes not otherwise accorded a ration credit level.

Ration credit levels for all of the foregoing uses would be the same as the suggested allocation levels but without application of an allocation fraction.

The definitions of "firm" and "retail sales outlet", which are adopted in the rationing regulations issued today, would require amendment to conform to the definitions used in the Mandatory Petroleum Allocation Regulations. The definition of "firm" specifies that the various departments, agencies, offices and instrumentalities of the Federal government are to be treated as separate firms since the Federal government does not have centralized records with respect to gasoline consumption. The definition of "retail sales outlet" has been narrowed from the meaning originally proposed so as to make it clear that the entity to which that term applies is clearly understood to be the typical service station where sales of gasoline are made to owners of passenger cars and trucks. The term does not refer to rack sales by jobbers or refiners to commercial accounts. To qualify as a retail sales outlet, the maximum amount of fuel, either gasoline or diesel fuel, which could be pumped into a vehicle's fuel tanks would be 130 gallons. The volume of 130 gallons was chosen because it was FEA's under-

standing that that is the maximum fuel tank size of any vehicle for which fuel would be purchased at a service station.

Alaska Natives.

In response to a unique situation in the State of Alaska, the definition of the term "eligible individuals" has been modified to include Alaska Natives of at least age 16 who have no driver's permit but who use gasoline in snowmobiles, boats, or other vehicles or tools. Persons other than Alaska Natives who are similarly situated should apply to their local Rationing Board for assistance.

Invalidation of ration coupons.

Several comments addressed the proposed provisions as to the invalidation of ration coupons. Under the regulation issued today, FEA could declare a particular series of ration coupons invalid. Invalidation would occur only where there is evidence of counterfeiting or other severe threat to the integrity of a particular ration coupon series. Invalidation would only occur after sufficient advance notification to the public. It is not anticipated that FEA would exercise this authority except in the most severe situation. FEA recognizes that the authority to invalidate a coupon series may affect the operation of the ration rights exchange market. This provision, however, which would be exercised only upon sufficient advance notice and

only when the circumstances clearly require its exercise, is essential to protect ration coupon integrity. Since it is unlikely that invalidation would ever be required, it would have minimal impact on the ration rights exchange market.

Base period use for vehicle rental companies.

There was considerable comment with respect to the special meaning of "base period use" for vehicle rental companies. As proposed, and adopted, the base period use for a vehicle rental company includes volumes of gasoline purchased or obtained by a vehicle rental company for its direct use but not including any volumes used by the vehicle rental company's customers. Concern was expressed that customers which have long-term leases with vehicle rental companies would not have available the information to determine their base period use for rented vehicles. It was also suggested that vehicle rental companies should be able to include in their base period use those volumes which were supplied to all customers who leased vehicles during the base period since the vehicle rental company supplies the gasoline as part of an overall service. FEA believes that vehicle rental companies should experience little difficulty in supplying base period consumption information to their customers. With this information, the lessee can apply, as would any other firm, to establish a base period use.

To the extent that a vehicle rental company supplies gasoline as part of its overall service to a customer, that vehicle rental company would be acting as a wholesale purchaser-reseller of gasoline. If a vehicle rental company wishes to acquire supplies from its supplier of gasoline to enable the rental company to continue this service activity, the rental company would have to open a redemption account and pay for its purchases like any other wholesale purchaser-reseller.

The regulations permit a vehicle rental company to require advance payment of ration rights by a lessee. For example, a vehicle rental company could require its lease customer to issue to the rental company on the first day of each month a ration credit check for the estimated amount of gasoline the lessee would use during a month. The vehicle rental company would then be able to deposit this ration credit check into its redemption account and still be able to issue a redemption check to its supplier within 10 days of receipt of the gasoline from its supplier. The vehicle rental company would obviously have to adjust the amount of the next succeeding ration credit check to be requested from the customer to reflect the difference in the estimated amount of gasoline for which it received a ration credit check and the actual volumes of gasoline supplied to the customer.

Base period use for firms with independent sales representatives.

As proposed, the Rationing Contingency Plan permitted firms having commissioned direct sales representatives to include in their base period uses the volumes of gasoline used in the sales activities of the firms' commissioned direct sales representatives. On the basis of comments received, the regulations adopted today deal with independent sales representatives rather than commissioned sales representatives. The regulation has also been modified to define more precisely the method by which such firms may include their representatives' gasoline volumes in determining base period use. Those representatives associated with the firm during the base period may, if they themselves would otherwise qualify as firms, agree with the firm to have their base period uses included in the firm's base period use provided the representatives certify to the firm in writing the amount of their base period uses and that they have not and will not include such base period uses in any application to any other firm or to FEA.

New representatives may agree with the firm to have base period uses for their needs included in the firm's total base period use. The volume to be included for each such new representative would be the amount of gasoline equal to the average of all other such representatives' base

period uses in the same period. Sales representatives who have entered into an agreement pursuant to the special regulation establishing base period use for firms having independent sales representatives would receive their ration rights directly from the firm.

A firm which includes existing and new independent sales representatives in the firm's base period use must submit a monthly report to FEA indicating the number of such representatives included in the firm's base period use, and the corresponding base period gasoline volumes, broken down by market area or other basis to be specified by FEA. The firm must also agree to make its records available at its headquarters office for FEA audit.

Discrimination between purchasers.

The proposed regulations included a provision (proposed § 700.51) which would have prohibited a supplier from discriminating between purchasers. This provision has been eliminated since to some extent a supplier must discriminate in favor of its base period customers which are bulk purchasers of gasoline. In addition, FEA believes 10 CFR 210.62 already prohibits discrimination among purchasers of allocated products where such acts would circumvent the objectives of the EPAA. Therefore, the regulations adopted today do not contain an explicit provision against discrimination among purchasers.

A supplier must accept from a consumer valid ration coupons which are tendered as evidence of entitlement to redeem gasoline if they are offered at the time of sale. A firm, including a supplier, may accept a ration credit check, but the burden of accepting a check for which there are insufficient ration credits is on the payee, who will be responsible for acquiring valid ration rights to cover any deficiency. Of course, except for a firm entitled to a ration credit level of 100 percent of current requirements, anyone who issues a ration credit check for which there are insufficient credits in the owner's ration credit account will be in violation of the Mandatory Gasoline and Diesel Fuel Rationing Regulations. See 10 CFR 500.42(e) and 500.43(d).
Procedural amendments.

At the time rationing is implemented, in addition to the amendments to the Mandatory Petroleum Allocation Regulations already discussed, amendments would be proposed to the Administrative Procedures and Sanctions, 10 CFR Part 205, to provide the necessary procedures in Subpart Q of that part for the administration of those sections of the rationing program delegated to the various States and Local Rationing Boards. 10 CFR Part 205 would also be amended to subject violations of the rationing program to the various remedial provisions, including sanctions set forth in that part. Public comment would be sought when these amendments are proposed.

Impact on tourism.

Representatives of the tourist industry were concerned that the Rationing Contingency Plan would have a severe and adverse impact upon their businesses. FEA agrees that, during a period in which rationing is in effect, it is likely that there would be substantial impact on the tourist industry. However, the cause for the disruption would not be the rationing program, but rather would be the lack of available gasoline and the need to structure that program so that priority uses receive equitable treatment.

FEA believes that the implementation of rationing during a period of shortage will in fact be of value to the tourist industry. Because the issuance of ration coupons and ration credits is determined by the actual supply of gasoline, holders of ration rights will be reasonably certain of finding available supplies as they travel throughout the United States. Thus, the fear of being unable to locate supplies during a trip to another section of the country will be greatly reduced since if one has ration rights, there should be available product wherever he travels. However, the rationing program cannot overcome the probable psychological impact of the shortage on most drivers who will understandably attempt to conserve their ration rights for periods of emergency or other unexpected needs, which in all likelihood will mean that most drivers will not engage

in what they perceive to be non-essential activities. FEA emphasizes that this would be a consequence of a gasoline shortage and not of the Rationing Contingency Plan.

Hardship allotments for persons engaged in household moves.

Several persons commented that there should be a provision for granting an allotment of ration rights from the State Hardship Reserves for persons who must make household moves. It was pointed out that without such a provision, a household would be forced to use the services of a commercial moving company or would have to absorb the cost of purchasing ration rights on the ration rights exchange market sufficient to meet the needs of the vehicle(s) involved in the move. Since many persons must move themselves because they cannot afford either of these alternatives, they would be effectively barred from moving. To avoid this undesirable result, provisions have been included for such households to seek additional ration rights from the State Hardship Reserves.

Adjustments to base period use.

In the proposed regulations, there were provisions that firms entitled to a ration credit level would have their base period uses adjusted downward if their requirements for gasoline decreased by 25 percent as compared to volumes used during the base period. Since the regulations as adopted today tie ration credit levels to allocation levels, it is appropriate that the adjustment for decreased base period

use be determined by the provisions of 10 CFR 211.13. Any increase in base period use accorded a firm pursuant to 10 CFR 211.13 would, of course, serve to increase the base period use for purposes of the Rationing Contingency Plan. It is anticipated that if rationing were implemented, FEA would propose to amend 10 CFR 211.13 to increase the threshold for unusual growth from ten percent to twenty percent.

Allocation entitlements for the construction industry would continue to be subject to the special provisions of 10 CFR 211.27. The base period use for allocation purposes which is established for a specific construction project will serve as the base period use for calculation of the ration credit allotment.

Current requirements.

In the notice of proposed rulemaking, FEA sought comments with respect to retaining the concept of providing 100 percent of current requirements for selected end uses. Those persons addressing this issue supported the continuation of the concept for those uses of clearly high priority. Therefore, the concept of providing 100 percent of current requirements to certain end-uses will be continued.

To prevent an inequity in the operation of the ration rights exchange market, a new provision has been added to prevent firms entitled to a ration credit level of 100 percent of current requirements from overdrawing their

ration credit accounts in excess of their true needs and selling the unneeded volume of ration rights on the ration rights exchange market. As adopted, the regulations provide that the FEA will deposit into the primary ration credit account of a firm entitled to a ration credit level of 100 percent of current requirements a volume of ration credits equal to 100 percent of such firm's base period use. If that firm needs less than 100 percent of its base period use, it, like any other firm, may sell the remaining ration rights on the ration rights exchange market. However, if a firm entitled to 100 percent of current requirements needs greater than 100 percent of its base period use, it may overdraw its account to the extent of its actual needs. The resulting overdraft will be recorded at the FEA Regional Processing Center at which time FEA will credit a supplemental ration credit allotment to the firm's account to offset the overdraft. In succeeding months, FEA will again allot to such firm 100 percent of its base period use, and if necessary, that firm may again overdraw its ration credit account without penalty so long as the overdraft is used to reach 100 percent of the current requirements of that firm. However, any firm which overdraws its ration credit account to meet 100 percent of its current requirements may not thereafter sell any of its ration rights in the ration rights exchange market. FEA will monitor those firms which

overdraw their ration credit accounts to assure that such firms are not participating in the ration rights exchange market and need the additional ration rights to satisfy those activities accorded a ration credit level of 100 percent of current requirements.

State and Local Rationing Offices.

Although there was some disagreement, there was general acceptance of the proposed regulations which set forth the roles of the State and Local Rationing Office. Therefore, the regulations adopted today are essentially the same as the regulations proposed. The criteria for delegation of authority to State Rationing Offices will not be addressed until the Congress approves the rationing plan. FEA will seek additional public participation in shaping the criteria for delegation of authority to State Rationing Offices after Congressional approval has been obtained for the remainder of the Rationing Contingency Plan.

Mid-period eligibility.

It was suggested that there would be an inequity if an eligible individual with a valid driver's permit failed to obtain his ration coupons by the first day of rationing and thereafter was prohibited from obtaining ration coupons for that ration period. To permit flexibility to cope with such a situation, the regulations adopted today permit FEA to declare a grace period during which eligible individuals

(including new eligible individuals) will be given additional time to acquire ration coupons for a ration period already in progress, as well as for succeeding ration periods.

Initial redemption account credit.

As proposed, the rationing regulations did not address the issue of how a retail sales outlet or other supplier would pay its suppliers for initial deliveries of gasoline. The regulations adopted today provide that an initial redemption account credit would be entered into each redemption account when the redemption account is opened equal to the greater of (1) the amount of an average single delivery during the base year or (2) 10 days' average gasoline receipts during the base year. In addition, within 30 days after the start of rationing, each firm would report its initial inventory levels measured on the first day of rationing before any sales or deliveries are made. On this report, each supplier would compute its adjusted redemption account credit which would be equal to a volume of an average single delivery received during the base year or ten days' average receipts in the base year, whichever is greater, plus 20 percent of total gasoline inventory capacity, minus inventory on the first day of rationing. If the result of this computation is less than zero, the adjusted redemption account credit would be equal to zero.

Special redemption account.

FEA recognizes that there are some suppliers in remote regions in the United States (especially in Alaska) which are subject to infrequent supply schedules or which are in areas subject to highly seasonal demand. These suppliers may apply to FEA for a special redemption account credit if the adjusted redemption account credit computed in accordance with the immediately preceding paragraph is insufficient to cover actual gasoline receipts less the amount of ration credits and redemption checks which are received or expected to be received from customers during the first 20 days of the rationing program.

Sales by retail sales outlets to customers not having ration rights.

There was some confusion over the purpose of the provision in the proposed regulations which permits a retail sales outlet to sell gasoline to customers without requiring them to transfer ration rights at the time of sale. The purpose of the provision is to permit a retail sales outlet at its option to make sales to customers without ration rights on the assumption that the retail sales outlet will be able through purchase of ration rights from the ration rights exchange market to cover those transactions. The retail sales outlet must obtain the additional ration rights within 10 days of making a sale to a customer who does not have

ration rights. The purpose of the 10-day period is not to permit the customer who purchases from the retail sales outlet to go out and find ration rights and then present them to the retail sales outlet. The customer who purchases from a retail sales outlet without transferring ration rights is under no obligation to return ration rights. Presumably such a customer would have paid the retailer the value of the coupons required for the sale in addition to the cost of the gasoline purchased. The obligation is on the operator of the retail sales outlet to either collect ration rights at the time of sale or to use the ration rights exchange market and obtain the necessary ration rights within 10 days of having made the sale.

Excess acquisition of product.

Several suppliers commented that in many cases a wholesale purchaser-reseller picks up product directly from its supplier's storage area without any monitoring by the supplier's personnel. This arrangement permits a customer to overdraw his entitlement in violation of the Mandatory Petroleum Allocation Regulations. It was suggested that liability for such excess acquisitions be placed on the customer and that the supplier be exonerated from any such violations. Existing regulations (10 CFR 211.25) permit suppliers and wholesale purchasers to agree between and among themselves to either borrow from future allocations or defer current allocations,

or both, on a volume for volume basis within the total allocations for one calendar year as long as such arrangements do not result in an involuntary reduction in allocations to other wholesale purchasers. FEA does not believe it would be in the best interests of the Mandatory Petroleum Allocation Program to shift responsibility for adherence solely to the purchaser when the obligations should fall equally on seller and purchaser to comply with the regulatory program. If the supplier is concerned that its customers will pick up excess supplies of product, it must exercise prudent judgment and station personnel at its storage area to prevent such violations.

Precedence of delivery.

Section 203(a)(1)(B) of the EPCA requires that the gasoline and diesel fuel rationing contingency plan provide, among other things, that there be a system whereby end users may obtain gasoline or diesel fuel in precedence to other classes of end users not similarly situated. In the proposals for the Rationing Contingency Plan, a provision to effectuate this provision of the EPCA was not included. The regulations adopted today contain a provision which requires that suppliers who have customers who would be accorded priority one status under 10 CFR 211.10(c) of the Mandatory Petroleum Allocation Regulations must arrange mutually acceptable delivery schedules with those customers before making commitments for deliveries

to its other customers who are not in priority one status. The adoption of this provision does not preclude States from adopting complementary plans to augment this regulation. See FEA Ruling 1974-0 (39 FR 6111, February 19, 1974).

Restrictions on endorsements.

In the proposed regulations there was a total prohibition against endorsement of ration credit checks to third parties. To permit greater flexibility in the rationing program, the regulations adopted today permit endorsement of ration credit checks by the payee to designated ration coupon issuance points when the payee wishes to exchange a ration credit check for ration coupons. Endorsements to other third parties, however, remain prohibited.

Ration credit levels for diesel fuels.

As originally proposed, the ration credit levels for those firms which purchase diesel fuel at retail sales outlets were to be equal to the allocation entitlements specified in the allocation regulations for middle distillates. As proposed, the regulations would have required that the ration credit level incorporate the concept of an allocation fraction. Since the FEA would not be aware of the allocation fraction being applied by a particular supplier until after ration credits were allotted each month, the regulations adopted today with respect to ration credit levels for purchasing diesel fuel at retail sales outlets parallel the

gasoline rationing program in specifying that the ration credit level for a firm entitled to a ration credit level shall be equal to the volume of diesel fuel to which such firm is entitled under the allocation regulations prior to the application of any allocation fraction.

Banking service fees and secondary ration credit accounts.

In its proposed regulations, FEA had included a provision for the collection of fees for opening and maintaining ration bank accounts. The principal purpose of these fees would have been to discourage the indiscriminate opening and excessive use of ration bank accounts. In light of comments received from representatives of the banking industry, FEA has decided to eliminate these fees altogether.

To prevent the excessive use of secondary ration credit accounts the regulations issued today include a provision that a minimum initial deposit of 300 gallons of ration rights will be required to open a secondary ration credit account.

These changes will simplify the banking system required for the rationing program while maintaining a barrier to improper use of ration bank accounts. Participating banks like other program participants will be compensated by FEA for their rationing activities from the per gallon fees collected by FEA on each gallon of gasoline sold.

ENVIRONMENTAL ASSESSMENT

By notice issued August 27, 1976 (41 FR 36823, September 1, 1976) FEA advised interested persons that it had completed an environmental assessment of the Rationing Contingency Plan. Copies of the environmental assessment are available for review and comment as indicated in the August 27, 1976 notice.

ECONOMIC ANALYSIS AND INFLATIONARY IMPACT

As required by section 201(f) of the EPCA, an economic analysis has been prepared with respect to the Rationing Contingency Plan. Copies of this economic analysis are available for public review in the FEA Freedom of Information Office, Room, 2107, 1200 Pennsylvania Avenue, N.W., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., e.s.t., Monday through Friday, except Federal holidays.

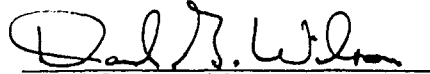
As required by Executive Order 11821 and Office of Management and Budget Circular A-107, the inflationary impact of the Rationing Contingency Plan has been considered.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133 and Pub. L. 94-163; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended Pub. L. 94-385; Energy Policy and Conservation Act, Pub. L. 94-163; E.O. 11790 (39 FR 23185); E.O. 11912 (41 FR 15825).)

In consideration of the foregoing, Chapter II of Title 10 of the Code of Federal Regulations is amended to add a new Part 500, as set forth below, subject to the approval by a resolution by each House of Congress in accordance with

the procedures specified in section 552 of the Energy Policy and Conservation Act (Pub. L. 94-163), said Part 500 only to become effective as provided in section 201(b) of that Act.

Issued in Washington, D.C., January 18, 1977.

A handwritten signature in cursive script, appearing to read "David G. Wilson", written over a horizontal line.

David G. Wilson
Acting General Counsel

10 CFR Chapter II is amended by adding Part 500, to read as follows:

PART 500 - MANDATORY GASOLINE AND DIESEL FUEL
RATIONING REGULATIONS

Subpart A -- General Provisions

- Sec.
500.1 Scope.
500.2 Relationship of subparts.
500.3 General definitions.
500.4 Ration coupons as obligations of the United States, crimes and offenses.

Subpart B -- Rationing of Gasoline

- 500.21 General.
500.22 Ration rights.
500.23 Validity of ration rights.
500.24 Issuance of ration rights to eligible individuals.
500.25 Issuance of ration rights to firms entitled to a ration credit level.
500.26 Calculations.
500.27 Recordkeeping requirements.

Subpart C -- Redemption, Validation of Ration Rights,
Scrip and Precedence of Delivery

- 500.31 General.
500.32 Invalidated ration rights.
500.33 Cancelled ration rights.
500.34 Redeemed ration rights.
500.35 Restriction on endorsements.
500.36 Scrip.
500.37 Precedence of delivery.

Subpart D -- Ration Credit and Redemption Accounts

- 500.41 General.
500.42 Primary ration credit accounts.
500.43 Secondary ration credit accounts.
500.44 Redemption accounts.
500.45 Recordkeeping requirements and reports.
500.46 Redemption account credits.

Subpart E -- National Ration Reserve

500.51 National Ration Reserve.

Subpart F -- State Rationing Offices and
Local Rationing Boards

500.61 State Rationing Office.
500.62 Local Rationing Boards.
500.63 Hardship applications.
500.64 Selection of Local Rationing Panel and Local
Rationing Board Manager.
500.65 State Hardship Reserves.
500.66 Timeliness.
500.67 Appeals.

Subpart G -- Diesel Fuel Rationing

500.71 General.
500.72 Issuance of ration rights.
500.73 Redemption.

Subpart A -- General Provisions

§ 500.1 Scope.

(a) This part applies to the end-use rationing of gasoline and diesel fuel produced in or imported into the United States.

(b) Effective date. The subparts of this part shall become effective severally or in toto on a date or dates to be specified by the Federal Energy Administration and published in the Federal Register, subject to the provisions of § 201 (b) and (c) of the Energy Policy and Conservation Act (Pub. L. 94-163).

(c) Relationship to other parts. Unless otherwise specified, the provisions of parts 205, 210 and 211 of this chapter shall apply to this part. The pricing provisions applicable to this part are provided in part 212 of this chapter.

§ 500.2 Relationship of subparts.

Unless otherwise specified in a particular subpart, the general provisions set forth in this subpart apply to the mandatory rationing of gasoline and diesel fuel.

§ 500.3 General definitions.

For purposes of this part--

"Allotment" means the value in gallons of gasoline or diesel fuel of the ration rights issued to an eligible individual or any firm.

"Base period" means the calendar month in the base year corresponding to the current calendar month.

"Base period use" means base period use as defined in § 500.25(c) of this part.

"Base year" means a calendar year to be determined by FEA and published in the Federal Register.

"Bulk purchaser" means bulk purchaser as defined in § 211.102 of Part 211 of this chapter.

"Current requirements" means the amount of gasoline or diesel fuel needed by a firm to meet its present supply requirements for a particular use of those products, but does not include any amounts which the firm (a) purchases or obtains for resale, (b) accumulates as an inventory in excess of that firm's customary inventory maintained according to its normal business practices, or (c) uses in excess of the supply necessary to meet present supply requirements as constrained by the implementation of the energy conservation program required in § 211.21 of Part 211 of this chapter.

"Diesel fuel" means No. 2-D diesel fuel as defined in American Society of Testing and Materials (ASTM) D975-71 and No. 1-D diesel fuel as defined in ASTM D975-71. Excluded from the definition is No. 4-D diesel fuel as defined in ASTM D975-71.

"Eligible individual" means (a) a natural person having a valid motor vehicle operator's permit, other than a learner's permit, issued by a State in his or her name, (b) an Indian

residing on a reservation under the jurisdiction of the Bureau of Indian Affairs of the Department of the Interior who has no State driver's permit but who is permitted by the Bureau of Indian Affairs to drive a motor vehicle on the reservation, (c) an Alaska Native of age sixteen (16) or over who has no driver's permit but who uses gasoline in a snowmobile, boat, or other vehicle or tool, or (d) any other natural person designated as an eligible individual by FEA.

"End-user" means end-user as defined in § 211.51 of Part 211 of this chapter.

"FEA" means the Federal Energy Administration or its delegate.

"Firm" means any association, company, corporation, estate, individual, joint-venture, partnership, or sole proprietorship or any other entity however organized including a charitable, educational, or other eleemosynary institution, State and local governments and the various departments, agencies, offices, corporations and other instrumentalities of the Federal Government. The FEA may, in regulations and forms issued in this part, treat as a firm:

(a) A parent and the consolidated and unconsolidated entities (if any) which it directly or indirectly controls, (b) a parent and its consolidated entities, (c) an unconsolidated entity, or (d) any part of a firm.

"Gasoline" means motor gasoline as defined in § 211.51 of Part 211 of this chapter excluding, however, aviation fuels as defined in § 211.142 of Part 211 of this chapter.

"Individual" means a natural person.

"Local Rationing Board" means the group consisting of the Local Rationing Panel, the Local Rationing Board Manager and the Local Rationing Board Staff.

"National Ration Reserve" means the ration rights reserved by FEA for each ration period for distribution to meet special or urgent needs during that ration period pursuant to Subpart E of this part.

"Ration credit level" means ration credit level as defined in § 500.25(d) of Subpart B of this part.

"Ration period" means the period from the date on which one ration coupon series becomes valid to the date the immediately following ration coupon series becomes valid.

"Ration rights" means ration coupons and ration credits made available pursuant to Subparts B, E, F, and G of this part which shall be evidence of an eligible individual's or firm's right to purchase specified volumes of gasoline and diesel fuel.

"Rationed product" means gasoline distributed pursuant to Subparts B and F of this part and diesel fuel distributed pursuant to Subparts F and G of this part.

"Retail sales outlet" means a site on which a supplier maintains an on-going business of selling any rationed product to any ultimate consumer, provided that the major activity of that supplier is to supply during the course of any single transaction one hundred thirty (130) gallons or less of a rationed product into supply tanks on a vehicle for use as fuel for that vehicle.

"Scrip" means any certificate, writing or token which represents less than five (5) gallons of a rationed product, and which a retail sales outlet may offer to any firm (including an individual) which has accepted less rationed product than the gallon amount of the ration rights surrendered to the retail sales outlet.

"State" means any one of the fifty States, the District of Columbia, Puerto Rico or any territory or possession of the United States.

"State Rationing Office" means the office established by the Chief Executive of each State to carry out the authorities delegated to that office by FEA pursuant to Subpart F of this part.

"State Hardship Reserves" means the ration rights provided to the State Rationing Offices by FEA for distribution within the States to meet the hardship needs of firms (including individuals) having needs for rationed products in addition to the amounts, if any, allotted to such firms pursuant to Subparts B and C of this part.

"Supplier" means any firm or any part or subsidiary of any firm other than the Department of Defense which currently, during the base period, or during any period between the base period and the present, supplies, sells, transfers or otherwise furnishes (as by consignment) any allocated or rationed product to wholesale purchasers or end-users, including, but not limited to refiners, importers, resellers, jobbers, and retailers.

"Wholesale purchaser" means wholesale purchaser as defined in § 211.51 of Part 211 of this chapter.

"Wholesale purchaser-consumer" means wholesale purchaser-consumer as defined in § 211.51 of Part 211 of this chapter.

"Wholesale purchaser-reseller" means wholesale purchaser-reseller as defined in § 211.51 of Part 211 of this chapter.

"Vehicle rental company" means a firm which rents or leases motor vehicles to other firms (including individuals) who are bailees of the motor vehicles for the period of the rental or lease.

§ 500.4 Ration coupons as obligations of the United States; crimes and offenses.

(a) Ration coupons are an obligation of the United States within the meaning of 18 U.S.C. 8. The provisions of title 18 of the United States Code, "Crimes and Criminal Procedure," relative to counterfeiting and alteration of obligations of the United States and the uttering, dealing

in, etc., of counterfeit obligations of the United States are applicable to ration coupons.

(b) Any firm having custody, care and control of ration coupons shall at all times, in receiving, storing, transmitting, or otherwise handling ration coupons, take all precautions necessary to avoid acceptance, transfer, negotiation, or use of spurious, altered, or counterfeit ration coupons and to avoid any unauthorized transfer, negotiation, or use of ration coupons. Such firms shall also safeguard ration coupons from theft, embezzlement, loss, damage, or destruction.

Subpart B -- Rationing of Gasoline

§ 500.21 General.

(a) For the duration of the Mandatory Gasoline Rationing Program, no supplier shall supply and no firm shall obtain gasoline from any supplier without transferring to the supplier within ten (10) days valid ration rights or redemption checks for redemption by the supplier equal on a gallon basis to the amount of gasoline transferred, except that any retail sales outlet may transfer gasoline to any firm (including an individual) other than a supplier without obtaining and redeeming ration rights from such firm if the retail sales outlet agrees to obtain and redeem the appropriate amount of ration rights from any source within ten (10) days of the transaction.

(b) For purposes of this subpart, "ration rights" means ration coupons and ration credits issued pursuant to this subpart.

§ 500.22 Ration rights.

(a) For each ration period, FEA shall issue ration rights equal to the estimated total available supply of gasoline for that ration period, as follows:

(1) One (1) percent shall be reserved for distribution pursuant to Subpart E of this part (the National Ration Reserve).

(2) Three (3) percent shall be reserved for distribution to the States based on population and other relevant factors pursuant to Subpart F of this part.

(3) FEA shall issue ration rights to all firms, but not eligible individuals, each calendar month pursuant to § 500.25 of this subpart. The total amount of ration rights issued to firms in a ration period is determined by adding together the pro-rata shares of all firms' allotments for calendar months which fall wholly or partially within the ration period.

(4) The remaining ration rights not issued according to subparagraphs (a)(1) through (a)(3) above will be issued to eligible individuals pursuant to § 500.24 of this subpart.

(b) Ration rights issued to firms will be distributed in the form of ration credits deposited into a primary ration credit account for each firm. Ration rights issued to eligible individuals will be distributed in the form of ration coupons. Ration credits may be used directly for gasoline or exchanged for coupons at coupon issuance points designated by FEA. Valid ration coupons may be deposited in ration credit accounts, and be subsequently withdrawn as ration credits.

§ 500.23 Validity of ration rights.

(a) Ration credits. Unless withdrawn by FEA, ration credits are valid from the date of issuance by FEA through the end of the Mandatory Gasoline Rationing Program. Ration

credits may be accumulated in ration credit accounts or may be withdrawn at any time after their issuance.

(b) Coupons. Unless declared invalid by FEA or redeemed or cancelled pursuant to Subparts C and D of this part, ration coupons of any series shall be valid from the first day of the ration period for which they are issued through the end of the Mandatory Gasoline Rationing Program even though the ration period for which the ration coupons were issued has ended. FEA may by advance public notice in the Federal Register declare any series or any portion of a series of ration coupons to be invalid. By notice to any holder of particular ration coupons, FEA may declare any ration coupons held by that holder to be invalid and require that such invalid ration rights be immediately surrendered to FEA.

§ 500.24 Issuance of ration rights to eligible individuals.

(a) Ration periods. (1) A ration period shall be designated by FEA at least ten (10) days prior to the first day of that ration period by notice published in the Federal Register. A notice designating a ration period may designate more than one ration period and shall establish the term of each ration period designated in the notice.

(2) FEA may by notice published in the Federal Register advance the commencement date of a previously designated ration period.

(b) Eligible individual's ration allotment. (1) For each ration period, FEA shall distribute ration rights to eligible individuals equal to the difference between the total ration rights issued for that ration period minus the ration rights to be distributed pursuant to Subparts E and F of this part and § 500.25 of this subpart.

(2) Each eligible individual shall be entitled to receive ration rights as determined pursuant to § 500.26 of this subpart. FEA shall provide notice of the number of ration rights to be issued each eligible individual for a ration period at least ten (10) days prior to the commencement of the ration period.

(c) Ration coupons. A ration coupon shall be redeemable for five (5) gallons of gasoline, unless pursuant to advance notice in the Federal Register FEA orders that a ration coupon shall be redeemable for a different volume of gasoline.

(d) Distribution of ration rights to eligible individuals.

(1) Each eligible individual may obtain his or her ration allotment at an issuance point designated by FEA. For the first three (3) ration periods, an eligible individual will be required to fill out an application form and present his or her State driver's license. Unless otherwise provided by notice published in the Federal Register, for ration periods subsequent to the first three (3) ration periods an eligible

individual will be issued his or her ration allotment for three (3) ration periods upon surrender of an authorization card, as provided by paragraph (e) below, issued to that eligible individual which is valid for those three (3) ration periods. FEA by notice will designate the day or days on which eligible individuals may apply for their ration allotments. Upon an eligible individual's presentation of a valid authorization card and delivery of his or her ration allotment for one or more designated ration periods, the eligible individual's authorization card for the series of ration rights issued shall be retained and marked or cancelled at the issuance point.

(2) The procedures of subparagraph (d)(1) may be followed by agents of eligible individuals unable to apply personally for ration rights. Such agents must present documents authorizing the agent to act on behalf of a particular eligible individual signed by the eligible individual in accordance with FEA forms and instructions.

(3) Indians residing on reservations under the jurisdiction of the Bureau of Indian Affairs may apply to the Bureau of Indian Affairs for their allotments. Alaska Natives may apply to the State agency for their allotments.

(4) Except as provided in subparagraph (5) below, any eligible individual who applies for a ration allotment after the start of a ration period will receive no allotment for

the ration period in progress, but may be given allotments for the next subsequent ration period or periods.

(5) Notwithstanding the provisions of subparagraph (4) above, FEA may provide additional time at the beginning of any ration period during which any eligible individual may apply for a ration allotment for that ration period.

(e) Authorization cards. (1) Any person who is an eligible individual shall be provided with valid authorization cards by the State agency authorized by FEA to issue and distribute authorization cards to licensed drivers holding driver's licenses from that State.

(2) Each eligible individual shall be issued one authorization card for designated ration periods by the appropriate State agency in accordance with notice given by FEA. No eligible individual shall accept or use more than one authorization card for any designated ration period.

(3) Appropriate State agencies shall be authorized by FEA to issue and distribute authorization cards.

(4) State agencies which enter into agreements with FEA to issue and distribute authorization cards which have been approved by FEA in writing shall do so in accordance with forms and instructions issued by FEA.

(5) Records and reports. Each State agency authorized by FEA to issue authorization cards shall keep records and submit such reports and other information as FEA may from time to time require.

(6) Retention of records. Each State agency shall retain all records and reports submitted to it for possible FEA audit for a period of three (3) years.

(7) Lost, stolen, or misplaced authorization cards. Any eligible individual whose authorization card is lost, stolen or misplaced shall immediately report such fact to the State agency. The State agency may issue to such eligible individual a new authorization card in accordance with procedures developed by the State agency and approved in writing by FEA. Within five (5) days of notification, the State agency must transmit the name and number of the lost, stolen, or misplaced authorization card to FEA.

(8) Appeals concerning authorization cards. Any individual aggrieved by any act or omission of the State agency with respect to any authorization card may file an appeal in accordance with the provisions of Subpart Q of Part 205 of this chapter.

(9) Each State agency shall establish procedures approved by FEA to ensure timely distribution of authorization cards to eligible individuals.

§ 500.25 Issuance of ration rights to firms entitled to a ration credit level.

(a) For each calendar month, FEA shall issue and distribute ration credits equal to the sum of the ration

credit allotments of all firms entitled to a ration credit level and which have primary ration credit accounts with FEA.

(b) Allotments. (1) On the first day of each calendar month a firm entitled to a ration credit level of one hundred (100) percent of current requirements and with a primary ration credit account shall receive from FEA an initial allotment equal to one hundred (100) percent of the firm's base period use. If a firm's current requirements exceed one hundred (100) percent of its base period use, the provisions of § 500.42(f) shall determine the manner in which supplementary allotments shall be made to meet the firm's current requirements.

(2) On the first day of each calendar month a firm entitled to a ration credit level other than one hundred (100) percent of current requirements and with a primary ration credit account shall receive from FEA an allotment equal to the firm's ration credit level multiplied by the firm's base period use.

(c) Base period use. (1) Except as otherwise specified in subparagraphs (2) and (3) of this paragraph, base period use means base period volume or adjusted base period volume, as appropriate. A wholesale purchaser-consumer's or end-user's base period use is the volume of gasoline purchased or obtained in a base period for a use for which there is a

ration credit level, including gasoline used by employees or agents of such a wholesale purchaser-consumer or end-user, provided that the gasoline was used for activities authorized as within the scope of the business activities of that wholesale purchaser-consumer or end user and the employees or agents were reimbursed for the cost of the gasoline they obtained. In the case of a new wholesale purchaser-consumer or new end-user, base period use means the volume assigned by FEA. Suppliers do not have a base period use for the purposes of this subpart except when acting as a wholesale purchaser-consumer or end-user.

(2) Vehicle rental companies. For vehicle rental companies, base period use means the base period volume or adjusted base period volume, as appropriate, used by employees or agents of the firm on firm business. Volumes of gasoline used by customers of the vehicle rental company are not included in the firm's base period use. In those instances where a vehicle rental company has not distinguished between gasoline used by customers and gasoline used by employees and agents of the firm, reasonable estimates based on actual mileage records may be used in establishing the firm's base period use. For the purposes of this part, if a vehicle rental company supplies gasoline for a customer's use, that vehicle rental company shall be deemed to be a wholesale purchaser-reseller for such volumes of gasoline supplied.

(3) Independent sales representatives.

(i) Any firm using independent sales representatives who are not employees of the firm may include the base

period use of such representatives in the firm's base period use provided (A) that each such representative would otherwise qualify as a firm for the purposes of receiving an allotment from FEA, (B) that each such representative certifies the amount of his or her base period use, and that he or she has not and will not include such base period use in any application to any other firm or to FEA, and (C) that the firm agrees to provide each such representative with an amount of ration rights equal to the amount such representative would have received from FEA by separate application for uses connected with carrying out the firm's activities.

(ii) Subject to FEA approval, a firm may also include in its base period use for each new such representative who has no base period use an amount of gasoline equal to the average of all other such representatives' base period uses in the same period.

(iii) Any firm which includes in its base period use the volumes permitted in (i) or (ii) above must attach to its application and submit monthly thereafter a certification showing the current number of such representatives by market area or other basis established by FEA, and the corresponding volumes associated with such representatives which are included in the firm's base period use.

Each such firm must also maintain records of the names, addresses, and telephone numbers of all such representatives,

and must make these records available to FEA upon request by FEA at the firm's principal office address shown on its application form. FEA or its representatives may perform audits of these records to verify their accuracy.

(d) Ration credit level. A ration credit level is the percentage of current requirements or of base period use of an end-user or wholesale purchaser-consumer, whether or not a bulk purchaser as defined in § 211.102 of Part 211 of this chapter, that FEA shall use in computing the allotment for such firms each calendar month. The ration credit levels for gasoline shall be the same as the allocation levels for motor gasoline specified in § 211.103 of Part 211 of this chapter without application of an allocation fraction.

(e) Basis of entitlement to ration credits. A firm entitled to a ration credit level shall receive ration credits based on its conduct of an ongoing business or maintenance of an established end-use for which there is a ration credit level.

(f) End-users and wholesale purchaser-consumers as firms. For purposes of defining an end-user or wholesale purchaser-consumer in this part, a firm shall mean all parts of the parent and the consolidated and unconsolidated entities (if any) which it directly or indirectly controls and which act as ultimate consumers, including all sites, storage tanks and other facilities or entities of the end-user or wholesale purchaser-consumer that use or store gasoline.

(g) Loss of ration credit entitlement for discontinued activities. A firm shall not be eligible to receive ration rights based upon discontinued activities and no firm shall accept or use ration rights issued or distributed to that firm or any other firm based upon discontinued activities.

(h) New wholesale purchaser-consumers and end-users. Wholesale purchaser-consumers and end-users which did not purchase gasoline during any base period may apply to FEA for assignment of a base period use pursuant to this subpart and to § 211.12(e) of Part 211 of this chapter. In determining base period use for a firm which was not in operation during the base year, FEA shall among other things review the firm's gasoline purchases preceding the firm's application to FEA, the types of vehicles used, and the number of miles driven. FEA will also consider typical consumption patterns of similar firms.

(i) Adjustments to base period use. Any firm entitled to a ration credit level which receives an adjustment to its base period use pursuant to § 211.13 of Part 211 and Subpart D of Part 205 of this chapter shall receive an identical adjustment to its base period use for purposes of this part.

(j) Distribution of ration rights to firms. (1) Each firm other than a Federal department, agency, office, or other instrumentality, may submit an application for a ration allotment and a primary ration credit account at a

participating bank or other initial processing point designated by FEA, during a period to be designated by FEA.

(2) Each Federal department, agency, office or other instrumentality may submit an application for a ration allotment and a primary ration credit account to the FEA National Office.

(3) Following the acceptance and approval of its application by FEA, each firm will receive ration checking materials, forms and instructions to enable it to draw on its primary ration credit account in accordance with Subpart D of this part.

§ 500.26 Calculations.

(a) This section establishes the formulae for calculating a firm's ration credit allotments, the total available supply, the adjusting term, and the length of the ration period. A "computation period" is used in these calculations initially, since the precise length of the ration period is not known until the final calculation is made. The first computation period will be 30 days. Once rationing has begun the computation period will have the same number of days as the immediately preceding ration period.

(b) For purposes of paragraphs (c), (d), (e), (f), (g), (h), and (i) of this section, the following symbols have the following meanings:

<u>Symbol</u>	<u>Units</u>	<u>Meaning</u>
REF	Gallons	Projected refinery output of gasoline during computation period.
IMP	Gallons	Projected imports of gasoline during computation period.
EXP	Gallons	Projected exports of gasoline during computation period.
LOS	Gallons	Projected losses of gasoline from spillage, evaporation and casualty losses during computation period.
NEI	Persons	Number of eligible individuals (latest count from State agencies and Bureau of Indian Affairs).
BM_i^V	Gallons	The base period use of a firm in month i .
DM_i	Days	Number of days in calendar month i .
DM_i^C	Days	Number of days in calendar month i which fall within the computation period.
INV	Gallons	Amount of desired gasoline inventory drawdown during computation period from industry and any government-held (strategic) inventories.
NRR	Gallons	Amount of allotment to be reserved for use in the National Ration Reserve for the upcoming ration period.
Σ SHR	Gallons	Amount of allotment to be provided for the State Hardship Reserves for the upcoming ration period.

CP	Days	Length of the computation period.
BA	Gallons per individual per ration period	The basic allotment for each eligible individual in a ration period (equal to NCU x VCU).
NCU	Coupons per ration period	Number of coupons to be given to each eligible individual in a ration period.
VCU	Gallons per coupon	Gallon value of each coupon.
RCL	Fraction expressed as a decimal	Ration credit level for a firm (90% = 0.9; 100% = 1.0)
TAS	Gallons	The total available supply of gasoline to be rationed during a ration period.
ADJ	Gallons	An adjusting term representing errors, roundings, authorized overdrafts, and returned allotments in previous periods.
NAS	Gallons	The net available supply of gasoline during a computation period, equal to the TAS minus amounts necessary for the National Ration Reserve and the State Hardship Reserves.
NDAS	Gallons	The net daily available supply equal to the NAS divided by the number of days in the computation period.
FA _i	Gallons	The allotment for a firm in month i.
FD _{cp}	Gallons	The weighted average daily allotment for a firm in the computation period.

ΣFD_{cp}	Gallons	The total weighted average daily allotment for all firms in the computation period (computed by summing FD_{cp} for all firms).
RP	Days	The length of a ration period.

(c) Total available supply (TAS). The total available supply (TAS) of gasoline which can be sold during the computation period is determined from data available on the refining and importing of gasoline, adjusted for exports, losses, and inventory changes.

$$TAS = REF + IMP - EXP - LOS + ADJ + INV$$

(d) Adjusting term (ADJ). The adjusting term is the sum of adjustments required as a result of errors, roundings, authorized overdrafts, and unclaimed allotments from previous ration periods.

$$\begin{aligned}
 ADJ \text{ equals } & \Sigma(TAS_{\text{current est}} - TAS_{\text{prior est}}) \\
 & \text{for all previous ration periods,} \\
 \text{plus} & \text{ UNCLAIMED ALLOTMENTS from individuals,} \\
 & \text{especially those with multiple licenses,} \\
 \text{plus} & \text{ RETURNED ALLOTMENTS from firms with} \\
 & \text{reduced or eliminated activities,} \\
 \text{plus} & \text{ ROUNDING ADJUSTMENT in computing the} \\
 & \text{prior ration period, where ROUNDING} \\
 & \text{ADJUSTMENT equals} \\
 & \frac{RP \text{ Rounded} - RP}{RP} \times BA \times NEI \\
 \text{minus} & \text{ Authorized overdrafts by firms entitled} \\
 & \text{to ration credit level of one hundred} \\
 & \text{(100) percent of current requirements.}
 \end{aligned}$$

(e) Net available supply (NAS). The net available supply is computed by subtracting from the TAS the allotments necessary to replenish or increase the National Ration Reserve and the State Hardship Reserves.

$$NAS = TAS - NRR - \sum SHR$$

(f) Net daily available supply (NDAS). The net daily available supply (NDAS) is computed by dividing the NAS by the number of days in the computation period.

$$NDAS = \frac{NAS}{CP}$$

(g) Allotment for each firm (FA_i). The monthly allotment for each firm is determined by multiplying the firm's base period use times the appropriate ration credit level.

$$FA_i = BM_i V \times RCL$$

(h) Average daily allotment for each firm (FD_{cp}). The average daily allotment for each firm during a computation period is calculated using a weighted average to take into account the fact that a computation period will usually overlap two calendar months.

$$FD_{cp} = \left[\frac{FA_1}{DM_1} \times \frac{DM_1 C}{CP} \right] + \left[\frac{FA_2}{DM_2} \times \frac{DM_2 C}{CP} \right]$$

(i) Length of ration period. The length of the ration period is determined as follows:

$$RP = \frac{BA \times NEI}{NDAS - \sum FD_{cp}}$$

The ration period length computed above will be rounded up to the nearest whole day.

§ 500.27 Recordkeeping requirements. All firms must maintain at their principal business address records on gasoline purchased, supplied, or obtained during each base period and during each month the Mandatory Gasoline Rationing Program is in effect. The records shall be subject to FEA audit and must be retained for three (3) years after the termination of the Mandatory Gasoline Rationing Program.

Subpart C -- Redemption,
Invalidation of Ration Rights, Scrip
and Precedence of Delivery

§ 500.31 General.

(a) Subject to the provisions of § 500.42(f) of this part, ration rights may be freely transferred for or without consideration provided that such ration rights have not been redeemed, cancelled or invalidated by FEA.

(b) No supplier (including a retail sales outlet) shall require any purchaser to purchase ration rights from any firm (including itself) as a condition of transferring gasoline.

(c) For purposes of this subpart, "ration rights" means ration coupons or ration credits issued pursuant to Subpart B of this part.

(d) No supplier, including a retail sales outlet, may refuse to accept valid ration coupons offered as evidence of entitlement to purchase gasoline if such coupons are tendered by a wholesale purchaser-consumer or end-user at the time of sale. A supplier may accept ration credit checks from a wholesale purchaser-consumer or end-user as evidence of entitlement to purchase gasoline, but if there are insufficient ration credits in the ration credit account on which the check is drawn, it shall be the payee's responsibility to secure valid ration rights to cover the deficiency.

§ 500.32 Invalidated ration rights.

Ration rights which have been invalidated by FEA are not transferable for value and shall be surrendered to FEA.

§ 500.33 Cancelled ration rights.

(a) Ration rights which have not been redeemed for gasoline may be deposited into a ration credit account. Such ration rights are cancelled when deposited.

(b) An owner of a ration credit account shall endorse ration rights to be deposited into that ration credit account with the account owner's name and account number, and shall indelibly mark ration rights with the legend "cancelled" at the time of deposit.

§ 500.34 Redeemed ration rights.

(a) Ration rights and redemption checks shall be redeemed by exchanging them for gasoline and shall be surrendered as provided by these regulations.

(b) A supplier (including a retail sales outlet) which accepts ration rights or redemption checks in exchange for gasoline shall redeem such ration rights and redemption checks by indelibly marking them with the supplier's name, its redemption account number and the legend "redeemed".

(c) A supplier (including a retail sales outlet) shall deposit redeemed ration coupons, ration credit checks and redemption checks in its redemption account.

(d) No supplier (including a retail sales outlet) shall accept from any firm ration coupons, ration credit checks or redemption checks marked "redeemed," "cancelled," or "specimen." No supplier shall deposit in its redemption account any redeemed ration rights or redemption checks which the supplier did not redeem for gasoline.

§ 500.35 Restriction on endorsements.

Except when surrendered for ration coupons by the payee at ration coupon issuance points, ration credit checks must be deposited by the payee and may not be endorsed to third parties.

§ 500.36 Scrip.

A retail sales outlet may issue scrip for any unused value on a ration coupon or ration credit check transferred for a purchase of gasoline. The type and form of the scrip are discretionary with the issuer. The scrip must be redeemed upon demand by the retail sales outlet which issued it. Retail sales outlets may agree among themselves to accept scrip issued by other retail sales outlets.

§ 500.37 Precedence of delivery.

Prior to agreeing to any other delivery schedules, suppliers shall first establish mutually satisfactory delivery schedules with all their wholesale purchaser-resellers and bulk purchasers entitled to the first priority level of allocation pursuant to § 211.10(c)(1) of Part 211 of this chapter.

Subpart D -- Ration Credit and Redemption Accounts

§ 500.41 General.

(a) FEA shall establish, maintain and administer primary ration credit accounts, secondary ration credit accounts, redemption accounts and any other accounts required by FEA at FEA Regional Processing Centers.

(b) FEA may authorize certain firms to act as participating banks to accept applications to establish primary ration credit accounts, secondary ration credit accounts, redemption accounts and any other accounts required by FEA, to accept deposits into such accounts and to perform such other duties and services as FEA may authorize.

(c) For purposes of this subpart, "ration rights" means ration coupons or ration credits issued pursuant to Subpart B of this part.

(d) Ration credit checks drawn on either primary or secondary ration credit accounts and redemption checks shall only be issued on forms approved and distributed by FEA.

§ 500.42 Primary ration credit accounts.

(a) Upon application by any firm (including an individual) entitled to a ration credit level, and in accordance with forms and instructions to be issued by FEA, FEA shall establish a primary ration credit account for such firm.

(b) On the first day of each calendar month, FEA shall deposit ration credits for that calendar month in a firm's primary ration credit account in an amount equal to the firm's ration credit allotment.

(c) A firm may deposit additional ration rights in its primary ration credit account; provided, That such ration rights have not been previously cancelled, redeemed or declared invalid.

(d) A firm may withdraw ration credits from its primary ration credit account by issuing a ration credit check to the order of the firm to which it wishes to transfer ration credits.

(e) Except as provided in paragraph (f) of this section, no firm shall issue a ration credit check drawn upon a primary ration credit account in which there are insufficient ration credits to cover that ration credit check and other outstanding ration credit checks drawn on that account.

(f) Notwithstanding the provisions of paragraph (e) of this section, a firm entitled to a ration credit level of one hundred (100) percent of current requirements may draw upon its primary ration credit account in excess of the balance in that account; provided, That such firm has not previously or shall not in the future transfer ration rights to another firm except to redeem its ration rights for gasoline to be utilized for activities having a ration credit level of one hundred (100) percent of current requirements.

§ 500.43 Secondary ~~Ration~~ credit accounts.

(a) Upon application of any firm in accordance with forms and instructions to be issued by FEA, FEA shall establish secondary ration credit accounts for that firm. The minimum initial deposit required to open a secondary ration credit account shall be three hundred (300) gallons.

(b) A firm may deposit ration rights in its secondary ration credit account; provided, That such ration rights have not been previously cancelled, redeemed or declared invalid by FEA.

(c) A firm may withdraw ration credits from its secondary ration credit account by issuing a ration credit check to the order of the firm to which it wishes to transfer ration rights.

(d) No firm shall issue a ration credit check drawn upon a secondary ration credit account in which there are insufficient ration credits to cover that ration credit check and other outstanding ration credit checks drawn on that account.

§ 500.44 Redemption accounts.

(a) Every supplier including every retail sales outlet shall apply to FEA for the establishment of a redemption account in accordance with forms and instructions issued by FEA.

(b) Suppliers shall deposit in their redemption accounts all redeemed ration rights and redemption checks which they have accepted.

(c) Within ten (10) days of purchasing or obtaining gasoline from any supplier, a wholesale purchaser-reseller must issue a redemption check to such supplier drawn on its redemption account in exchange for gasoline received.

(d) Participating banks shall accept redeemed ration rights and redemption checks on behalf of FEA for deposit in a supplier's redemption account.

§ 500.45 Recordkeeping requirements and reports.

Participating banks shall maintain such records and issue such reports as may be required from time to time by FEA.

§ 500.46 Redemption account credits.

(a) Based on information contained in the supplier's application for a redemption account, every supplier shall receive an initial redemption account credit equal to the greater of (1) the amount of an average single delivery during the base year or (2) ten (10) days' average gasoline receipts during the base year, computed by dividing the base year volume by three hundred sixty-five (365) and multiplying the result by ten (10).

(b) Within thirty (30) days from the date ration rights are required for the purchase of gasoline, every supplier shall report in accordance with

FEA forms and instructions its initial inventory levels measured on the first day of rationing before any sales or deliveries of gasoline are made. On this report form each supplier must compute its adjusted redemption account credit, which shall be equal to the volume of an average single delivery received during the base year, or ten (10) days' average receipts during the base year, if greater, plus twenty (20) percent of total gasoline inventory capacity, minus inventory on the first day of rationing. If the result is less than zero, the adjusted redemption account credit is equal to zero.

(c) Suppliers which are located in remote areas subject to infrequent or irregular supply schedules, and suppliers in areas subject to highly seasonal demand may apply to FEA for a special redemption account credit, if the adjusted redemption account credit computed according to paragraph (b) above will be insufficient to cover actual gasoline receipts less the amount of ration credits and redemption checks received or expected to be received from customers during the first twenty (20) days of the rationing program.

Subpart E -- National Ration Reserve

§ 500.51 National Ration Reserve.

(a) The National Ration Reserve shall be used by FEA to meet national disaster relief needs or for emergency replenishment of a State Hardship Reserve or for any other emergency need at the discretion of the Administrator of the FEA.

(b) Each ration period, one (1) percent of the ration rights issued by the FEA pursuant to Subpart B of this part shall be reserved for distribution at the discretion of the FEA National Office through the National Ration Reserve. The percentage of ration rights to be retained in the National Ration Reserve may be increased or decreased during subsequent ration periods upon notice published in the Federal Register.

Subpart F -- State Rationing Offices and Local Rationing Boards

§ 500.61 State Rationing Office.

(a) Any State may apply to the FEA National Office to create a State Rationing Office within the State. The Bureau of Indian Affairs shall be treated as a State Rationing Office with respect to the Indian reservations under its jurisdiction.

(b) After FEA review of the criteria in paragraph (d) of this section and upon certification by FEA, such State Rationing Office will be delegated authority (1) to administer the State Hardship Reserve allotted by FEA to that State, (2) to receive petitions from any user of rationed products with respect to the priority and entitlement of such user under these regulations, and (3) consistent with these regulations and guidelines issued by FEA, to order a reclassification or modification of any prior determination made with respect to such user's rationing priority or rights specified in subparagraph (b)(2) above subject to review by FEA.

(c) Each State shall maintain a primary ration credit account into which FEA shall deposit each month ration credits equal to that State's Hardship Reserve. No State shall issue a ration credit check drawn upon this ration credit account if there are insufficient ration credits to cover that ration credit check and other outstanding ration credit checks drawn on that account.

(d) The State Rationing Office may redelegate the authority given to it by FEA to one or more Local Rationing Boards.

(e) Criteria for delegation of authority to State Rationing Offices. [Reserved]

§ 500.62 Local Rationing Boards.

(a) Local Rationing Boards may be established within a State by the State Rationing Office pursuant to § 500.61 of this subpart.

(b) Each Local Rationing Board shall include a Local Rationing Panel selected pursuant to § 500.64 of this subpart.

(c) The Local Rationing Board shall be allotted an equitable portion of the State Hardship Reserve by the State Rationing Office. The Local Rationing Board shall maintain a secondary ration credit account into which it shall deposit the portion of the State Hardship Reserve it receives from time to time. From this secondary account, the Local Rationing Board may issue ration rights to eligible individuals determined to be experiencing hardships pursuant to § 500.63 of this subpart. The Local Rationing Board shall not issue a ration credit check drawn upon its secondary ration credit account if there are insufficient ration credits to cover that ration credit check and other outstanding ration credit checks drawn on that account.

(d) Each Local Rationing Board shall accept hardship applications pursuant to § 500.63 of this subpart and either approve or disapprove such petitions pursuant to instructions and guidelines to be issued by FEA.

(e) Each week the Local Rationing Board shall report to the State Rationing Office with respect to the preceding week (1) the number of hardship applications received per category of hardship alleged, (2) the disposition made of hardship applications, and (3) the amount of ration rights issued to individuals found to be experiencing hardships.

(f) The Local Rationing Panel shall review and decide all appeals of decisions made by the Local Rationing Board pursuant to § 500.63(d) of this subpart and in accordance with guidelines to be issued by FEA. The Local Rationing Panel shall also review and decide appeals filed by any person aggrieved by a decision of the Local Rationing Board with respect to any matters redelegated to it by the State Rationing Office pursuant to § 500.61 of this subpart. Appeals from the decision of the Local Rationing Panel may be further appealed pursuant to § 500.67 of this subpart.

(g) The Bureau of Indian Affairs may establish Local Rationing Boards on Indian reservations under its jurisdiction. Such boards will carry out the duties and functions of Local Rationing Boards as set forth in this subpart.

§ 500.63 Hardship applications.

(a) An individual may file a hardship application for rationing rights in addition to the rationing rights, if any, which he or she is entitled to receive pursuant to Subpart B of this part. The application shall be made in accordance with FEA forms and instructions.

(b) Hardship applications will be received by the Local Rationing Board for review and determination if the applicant alleges any one or more of the following hardships:

(1) Handicapped persons. Any individual who, by reason of disease, injury, age, congenital malfunction, or other permanent incapacity or disability, is unable without special facilities, planning or design to utilize mass transportation vehicles, facilities and services, who has a substantial, permanent impediment to mobility and whose needs for rationed products exceed the amount, if any, represented by the ration rights issued pursuant to Subpart B of this part may file a hardship application.

(2) Low-income, long-distance commuters. Persons who without ration rights in addition to the amount, if any, allotted to them pursuant to Subpart B of this part would be forced to spend over five (5) percent of their adjusted gross incomes purchasing ration rights for travel to and from their place of employment, and for whom carpooling or public transportation is not a reasonable alternative, may file a hardship application.

(3) Migrant workers. An individual who holds a drivers license issued by a State, who travels from one agricultural work site to another agricultural work site, and whose needs for rationed products exceed the amount represented by the ration rights, if any, issued pursuant to Subpart B of this part may file a hardship application with the Local Rationing Board which serves the community in which the current work site is located. The applicant should be awarded sufficient ration rights to assist the individual in traveling to his or her next work site.

(4) Persons engaged in household moves. Persons who are driving vehicles as part of their own household move and who in order to complete the move will need more than twenty-five (25) percent of the total amount of ration rights for one ration period allotted to all members of the household pursuant to Subpart B of this part may file a hardship application. Rationed products needed by firms engaged in household moving for hire may not be obtained through the Local Rationing Board.

(5) Other recurring or one-time hardship needs. Any individual experiencing severe hardships on a recurring or one-time-only basis, who is not specified in subparagraphs (b)(1), (2), (3) and (4) above, may file a hardship application. The Local Rationing Board must review and decide any

application filed pursuant to this subparagraph (b) (5) consistent with the objectives of the Mandatory Gasoline Rationing Program.

(c) Processing of applications. (1) The Local Rationing Board may initiate an investigation of any statement in an application, whether written or verbal, and use in its evaluation any relevant facts obtained by such investigation. The Local Rationing Board may solicit and accept submissions from third persons relevant to any application provided that the applicant is afforded an opportunity to respond to all third person submissions. In evaluating an application, the Local Rationing Board may consider any other source of information. The Local Rationing Board on its own initiative may convene a conference, if, in its discretion, it considers that a conference will advance its evaluation of the application.

(2) If the Local Rationing Board determines that there is insufficient information upon which to base a decision and if upon request the necessary additional information is not submitted, the Local Rationing Board may dismiss the application without prejudice. If the failure to supply additional information is repeated or willful, the Local Rationing Board may dismiss the application with prejudice.

(3) After processing, the Local Rationing Board or upon appeal the Local Rationing Panel shall either grant or deny a hardship application. If the application is granted,

the Local Rationing Panel or the Local Rationing Board shall determine the amount of ration rights to be granted, shall notify the applicant in writing of the amount determined, and shall issue ration rights to the applicant in that amount. If the Local Rationing Board or the Local Rationing Panel determines that the application is not to be granted, the applicant shall be notified in writing promptly upon such determination.

(d) An applicant who does not receive as many ration rights as he or she applied for or an applicant whose application is not granted may appeal to the Local Rationing Panel. The appeal must be filed within fifteen (15) calendar days of receipt of the notice of determination specified in subparagraph (c)(3) of this section. There has not been an exhaustion of administrative remedies until an appeal has been filed and decided, and all further appellate proceedings provided in § 500.67 of this subpart have been completed.

§ 500.64 Selection of Local Rationing Panel and Local Rationing Board Manager.

The Local Rationing Panel shall consist of an odd number of volunteers selected by the local government in which the panel serves in accordance with FEA guidelines. The members of the Local Rationing Panel shall designate one of their members as the individual responsible for calling meetings of the panel to determine local procedures and to

carry out the duties of the Local Rationing Panel. The Local Rationing Board Manager shall be selected by the Chief Executive of the State in which the Local Rationing Board is located.

§ 500.65 State Hardship Reserves.

(a) Pursuant to Subpart B of this part, FEA shall distribute ration rights to each State Rationing Office to be used by Local Rationing Boards to meet the needs of approved individual hardship applicants pursuant to § 500.63 of this subpart and to meet the needs of approved hardship applications filed with the State Rationing Office by firms pursuant to paragraph (b) of this section.

(b) Application by firms experiencing severe hardships.

(1) A firm entitled to a ration credit level, other than as a supplier or a wholesale purchaser-reseller, may file an application with the State Rationing Office for rationing rights in addition to any rationing rights it is entitled to receive pursuant to Subparts B and G of this part. The application shall be made in accordance with FEA forms and instructions.

(i) The State Rationing Office may initiate an investigation of any statement in an application, whether written or verbal, and use in its evaluation any relevant facts obtained by such investigation. The State Rationing Office

may solicit and accept submissions from third persons relevant to any application provided that the applicant is afforded an opportunity to respond to all third person submissions. In evaluating an application, the State Rationing Office may consider any other source of information. The State Rationing Office on its own initiative may convene a conference, if, in its discretion, it considers that a conference will advance its evaluation of the application.

(ii) If the State Rationing Office determines that there is insufficient information upon which to base a decision and if upon request the necessary additional information is not submitted, the State Rationing Office may dismiss the application without prejudice. If the failure to supply additional information is repeated or willful, the State Rationing Office may dismiss the application with prejudice.

(2) The State Rationing Office shall notify the applying firm in writing of the decision made with respect to the application and the amount, if any, of ration rights the firm is to receive from the State Hardship Reserve.

(3) Any firm aggrieved by the decision of the State Rationing Office with respect to its application may appeal that decision pursuant to § 500.67(c) of this subpart.

(c) Each month the State Rationing Office shall report to FEA with respect to the preceding month (1) the number of hardship petitions received per category of hardship alleged,

(2) the disposition made of hardship applications, and (3) the amount of ration rights issued from the State's Hardship Reserve.

(d) Within ten (10) days of the end of a ration period, any ration rights remaining in the State Hardship Reserve shall be reported to FEA. FEA may, among other courses of action, add it to the State Hardship Reserve for the next ration period, transfer all or a portion of the balance to another State Hardship Reserve, or treat the balance as an advancement on the State Hardship Reserve for the next ration period.

§ 500.66 Timeliness.

(a) If the Local Rationing Board, the Local Rationing Panel or the State Rationing Office fails to take action on an individual's or a firm's application, respectively, within ten (10) days of filing, the applicant may treat the application as having been denied in all respects and may appeal therefrom as provided in § 500.67 of this subpart.

(b) Notwithstanding paragraph (a) of this section, the Local Rationing Board or the State Rationing Office may temporarily suspend the running of the 10-day period if it finds that additional information is necessary or that the application was improperly filed. The temporary suspension shall remain in effect until the Local Rationing Board or the State Rationing Office serves upon the individual or

firm notice that the additional information has been received and accepted or that the application has been properly filed as appropriate. Unless otherwise provided in writing, the 10-day period shall resume running on the first day that is not a Saturday, Sunday, or Federal legal holiday and that follows the day on which the Local Rationing Board or the State Rationing Office serves upon the person the notice described in this paragraph.

§ 500.67 Appeals.

(a) An individual aggrieved by a decision made by a Local Rationing Board may appeal that decision to the Local Rationing Panel pursuant to § 500.63(d) of this part.

(b) An individual aggrieved by an appeal decision of a Local Rationing Panel may appeal that decision to the State Rationing Office in accordance with the procedures established by the State office. The appeal shall be filed within fifteen (15) days of service of the order from which the appeal is taken. There has not been an exhaustion of administrative remedies until an appeal has been filed and the appellate proceeding is completed by the issuance of an order granting or denying the appeal.

(c) Any person aggrieved by a decision made by a State Rationing Office with respect to any matters coming within the authority delegated to it pursuant to § 500.61 of this

subpart, or relating to its decisions on applications for additional ration rights made pursuant to § 500.65 of this subpart, or on an appeal decision made pursuant to paragraph (b) of this section may file an appeal of that decision pursuant to Subpart Q of Part 205 of this chapter.

Subpart G - Diesel Fuel Rationing

§ 500.71 General.

(a) No firm shall obtain diesel fuel at retail sales outlets from any supplier without transferring to the supplier valid ration rights equal on a gallon basis to the amount of diesel fuel transferred and no supplier (including a retail sales outlet) shall transfer diesel fuel at retail sales outlets to any wholesale purchaser-consumer or end-user, without obtaining and redeeming ration rights from such wholesale purchaser-consumer or end-user, except that a supplier at a retail sales outlet may transfer diesel fuel to any firm other than a supplier without obtaining and redeeming ration rights from such firm if the supplier at a retail sales outlet agrees to obtain and redeem the appropriate amount of ration rights from any source and does so within ten (10) days of the transaction.

(b) For purposes of this subpart, "ration rights" means ration coupons issued pursuant to subparts B and F of this part or charges against a diesel fuel entitlement card issued by FEA pursuant to § 500.72 of this subpart.

§ 500.72 Issuance of ration rights.

(a) Ration coupons issued for gasoline pursuant to the provisions of Subparts B and F of this part may be used to purchase diesel fuel at retail sales outlets in lieu of gasoline at the option of the holder. However, no ration coupon may be used for both gasoline and diesel fuel.

(b) Ration coupons issued pursuant to Subparts B and F of this part which the holder uses to purchase diesel fuel at retail sales outlets shall be valid in the same manner as specified in § 500.23 of this part.

(c) A firm which purchases diesel fuel at retail sales outlets may apply to FEA for establishment of a diesel fuel ration credit account and for issuance of a diesel fuel entitlement card which shall enable the holder to purchase diesel fuel at retail sales outlets. The amount of the ration allotment which FEA will make for each diesel fuel primary ration credit account shall be the same as the allocation levels for middle distillate specified in Part 211 of this chapter prior to the application of an allocation fraction.

(d) Firms applying for a diesel fuel entitlement card shall be provided a diesel fuel ration credit account to which FEA will credit in each calendar month the amount of diesel fuel to which the firm is entitled pursuant to paragraph (c) above.

(e) A firm which wishes to purchase diesel fuel at retail sales outlets in excess of volumes purchased at retail sales outlets during the base period may petition FEA pursuant to Subpart D of Part 205 of this chapter to increase the amount of the firm's ration credits to be issued by FEA in a calendar month. A firm which did not purchase

diesel fuel at retail sales outlets during a base period may apply for assignment of a base period use pursuant to Subpart C of Part 205 of this chapter.

(f) A firm may apply to FEA for a diesel fuel entitlement card in accordance with FEA forms and instructions. The applicant shall be required to determine its base period use of diesel fuel and to indicate for each period corresponding to a base period how much by volume of its base period use of diesel fuel was purchased at retail sales outlets.

(g) FEA may invalidate any diesel fuel entitlement card by notice to the firm to which it was issued if FEA finds, among other things, that the card is being improperly used or is reported lost or stolen.

(h) Sales to holders of diesel fuel entitlement cards at retail sales outlets of diesel fuel shall be made by imprinting the information on the card on an FEA form which shall, among other information, indicate the volume of diesel fuel sold; the date of sale; the name of the retail sales outlet; and certification by the card holder that he or she is currently authorized by the firm (including an individual) to which the card was issued to use the card for purchases of diesel fuel at retail sales outlets. A copy of the completed form shall be provided to the holder; a second copy held for transmittal to the FEA regional processing center; and a third copy maintained by the retail sales outlet.

§ 500.73 Redemption.

(a) The retail sales outlet of diesel fuel shall collect all ration rights exchanged for diesel fuel and after stamping any ration coupons redeemed for diesel fuel with the legend "redeemed for diesel," keep all such ration rights separate from ration rights exchanged for gasoline. Those ration rights exchanged for diesel fuel shall not be deposited in a wholesale purchaser-reseller's redemption account.

(b) From time to time and upon prior notification by FEA, retail sales outlets of diesel fuel may be required to transmit to a FEA regional processing center all ration rights exchanged for diesel fuel including copies of the transaction forms used by holders of diesel fuel entitlement cards which the owner of the retail sales outlet retained at the time of sale pursuant to § 500.72(h) of this subpart.